

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

United States of America
ex rel. ALEX DOE, Relator,

The State of Texas
ex rel. ALEX DOE, Relator,

The State of Louisiana
ex rel. ALEX DOE, Relator

Plaintiffs,

v.

Planned Parenthood Federation of America,
Inc., Planned Parenthood Gulf Coast, Inc.,
Planned Parenthood of Greater Texas, Inc.,
Planned Parenthood South Texas, Inc.,
Planned Parenthood Cameron County, Inc.,
Planned Parenthood San Antonio, Inc.,

Defendants.

Civil Action No. 2:21-CV-00022-Z

UNOPPOSED MOTION FOR LEAVE TO FILE STATEMENT OF INTEREST

The United States respectfully moves for leave to file the Statement of Interest attached hereto as Exhibit A pursuant to 28 U.S.C. § 517 to address the free choice of provider requirement in the Medicaid Act. Counsel for Defendants, counsel for the State of Texas, and counsel for Relator Alex Doe do not oppose the United States' Motion; each of the parties may seek to file a response to the Statement of Interest, which the United States will not oppose.

I. Procedural Background

On November 3, 2021, the United States notified the Court that it was declining to intervene in this case. (Dkt. 18.) The parties filed cross motions for summary judgment on January 6, 2023 (Dkts. 381, 385, 388, 389), and oppositions to those motions on January 27, 2023. (Dkts. 414-420). The parties' replies in support of their summary judgment motions must be filed on or before February 21, 2023. (Dkt. 413.)

II. Argument

After investigating the relator's federal claims in this matter, the United States elected not to intervene to pursue those claims. Even where the United States declines to intervene in a *qui tam* action, however, the United States remains a real party in interest, because the relator is asserting claims on behalf of the United States for harms purportedly suffered by the government. *United States ex rel. Eisenstein v. City of N.Y.*, 556 U.S. 928, 934 (2009); *Riley v. St. Luke's Episcopal Hosp.*, 252 F.3d 749, 756 n.10 (5th Cir. 2001). Accordingly, courts have permitted the United States to file statements of interest in declined *qui tam* cases. *Cf. United States ex rel. Parikh v. Citizens Med. Ctr.*, 977 F. Supp. 3d 654 (S.D. Tex. 2013); *see also United States ex rel. McCready v. Columbia/HCA Healthcare Corp.*, 251 F. Supp. 2d 114 (D.D.C. 2003). The United States has a strong interest in the proper operation of the Medicaid program, and in ensuring that states administer their federally subsidized Medicaid programs in a manner that is consistent with the Medicaid statute, as federal funds pay at least 50% of the cost of providing medical assistance to Medicaid beneficiaries. *See* 42 U.S.C. § 1396d(b). Accordingly, the United States seeks to file the attached Statement of Interest to address the Medicaid Act's free choice of provider requirement.

The Defendants, the State of Texas, and Relator do not oppose the United States' request, but may seek to file a response, which the United States will not oppose.

III. Conclusion

Accordingly, the United States respectfully requests leave to file its attached Statement of Interest regarding the free choice of provider requirement in the Medicaid Act.

Respectfully submitted,

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PRINCIPAL DEPUTY ASSISTANT ATTORNEY
GENERAL

LEIGHA SIMONTON
UNITED STATES ATTORNEY

/s/ Kenneth G. Coffin
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Certificate of Conference

I certify that counsel for the United States conferred with counsel for Relator Alex Doe on February 13 and 15, 2023, and counsel confirmed that Relator was unopposed to the relief requested herein, provided the United States consents to Plaintiffs filing a response. I further certify that counsel for the United States conferred with counsel for the State of Texas on February 13 and 15, 2023, and counsel confirmed that the State of Texas was unopposed to the relief required herein, provided the United States consents to Plaintiffs filing a response. I further certify that counsel for the United States conferred with counsel for Defendants Planned Parenthood Federation of America, Inc., Planned Parenthood Gulf Coast, Inc., Planned Parenthood of Greater Texas, Inc., Planned Parenthood South Texas, Inc., Planned Parenthood Cameron County, Inc., Planned Parenthood San Antonio, Inc. on February 13, 2023, and counsel confirmed that Defendants do not oppose the relief requested in the instant motion. To the extent any of the parties seek to file a response to the Statement of Interest, the United States will not and does not oppose such request.

/s/ Kenneth G. Coffin
Kenneth G. Coffin
Assistant United States Attorney

Certificate of Service

On February 15, 2023, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Kenneth G. Coffin
Kenneth G. Coffin
Assistant United States Attorney